

## DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

METHOD AND SYSTEM FOR PREDICTIVE PHYSIOLOGICAL  
GATING OF RADIATION THERAPY

the specification of which

(Check one)  is attached hereto.

was filed on \_\_\_\_\_ as

Application Serial No. \_\_\_\_\_  
 and amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed	
N/A (Number)	(Country)	(Day/Month/Year Filed)	Yes	No.
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	Yes	No.
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	Yes	No.

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional applications(s) listed below.

N/A (Application Serial No.)	(Filing Date)
_____ (Application Serial No.)	_____ (Filing Date)

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of the application:

<u>N/A</u> (Application Serial No.)	<u>(Filing Date)</u>	<u>(Status-patented, pending, abandoned)</u>
<u>(Application Serial No.)</u>	<u>(Filing Date)</u>	<u>(Status-patented, pending, abandoned)</u>

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office contacted therewith:

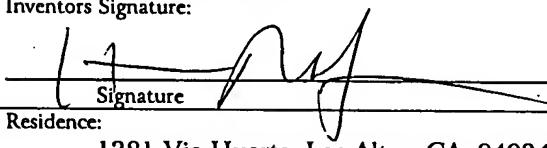
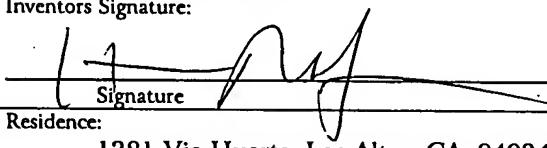
Edward H. Berkowitz #27,771; Bella Fishman #37,485; Hunter Auyang #33,224; Bradford Friedman #41,764

Address all telephone calls to Hunter L. Auyang at telephone no. (650) 424-6391

Address all correspondence to:

VARIAN ASSOCIATES, INC.  
Legal Department  
3100 Hansen Way, M/S E-339  
Palo Alto, California 94304

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole or First Inventor: <b>Hassan Mostafavi</b>
Inventors Signature: 
Signature  Date <u>10/23/98</u>
Residence: <b>1281 Via Huerta, Los Altos, CA 94024</b>
Citizenship: <b>United States</b>



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

MARCH 16, 1999

PTAS

VARIAN ASSOCIATES, INC.  
DEBBIE KUS  
LEGAL DEPARTMENT M/S E- 339  
3100 HANSEN WAY  
PALO ALTO, CALIFORNIA 94304



\*100910286A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 11/23/1998 ✓

REEL/FRAME: 9604/0006  
NUMBER OF PAGES: 3 ✓

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

MOSTAFAVI, HASSAN ✓

DOC DATE: 11/06/1998 ✓

ASSIGNEE:

VARIAN ASSOCIATES, INC. ✓  
3100 HANSEN WAY  
LEGAL DEPARTMENT M/S E-339  
PALO ALTO, CALIFORNIA 94304

SERIAL NUMBER: 09178383 ✓  
PATENT NUMBER:

FILING DATE: 10/23/1998 ✓  
ISSUE DATE:

SHAREILL COLES, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

R E C E I V E D  
MAR 25 1999

LEGAL DEPARTMENT

12-01-1998

NOV 23 1998  
FORM PTO-1595  
(Rev. 6-93)

RE

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Docket No. 98-43 US

OMB No. 0651-0011 (exp 4/94)

100910286

To the Honorable Assistant Commissioner for Patents: Please record the attached original document(s) or copy thereof.

## 1. Name of conveying party(ies):

Hassan Mostafavi

Additional name(s) of conveying party(ies) attached?  Yes  No

## 3. Nature of conveyance:

 Assignment  Merger Security Agreement  Change of Name Other \_\_\_\_\_

Execution Date November 6, 1998

## 2. Name and address of receiving party(ies):

Name: VARIAN ASSOCIATES, INC.Internal Address: Legal Department M/S E-339Street Address: 3100 Hansen WayCity: Palo Alto State: California ZIP: 94304Additional name(s) & address(es) attached?  Yes  No

## 4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

09/178,383

B. Patent No.(s)

Additional numbers attached?  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Debbie KusInternal Address: VARIAN ASSOCIATES, INC.Legal Department M/S E- 339Street Address: 3100 Hansen WayCity: Palo Alto State: California ZIP: 94304

## 6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41)..... \$ 40.00 Enclosed Authorized to be charged to deposit account

## 8. Deposit account number:

22-0255

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE E

## 9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*Hunter Auyang (Reg. No. 33,224)

Name of Person Signing

Signature

November 18, 1998

Date

Total number of pages including cover sheet, attachments and document: 3

11/30/1998 DNGUYEN 00000169 220255 09178383

01 FC:581 40.00 CH

## ASSIGNMENT

For value received, I, Hassan Mostafavi, residing at 1281 Via Huerta, Los Altos, California 94024 respectively, hereby sell, assign, transfer, and set over to VARIAN ASSOCIATES, INC., a corporation of the State of Delaware, having its principal office in Palo Alto, California, its successors or assigns, our entire right, title and interest in and to the improvements in the invention entitled

### METHOD AND SYSTEM FOR PREDICTIVE PHYSIOLOGICAL GATING OF RADIATION THERAPY

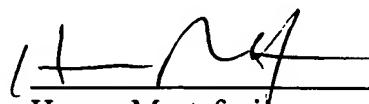
(Varian Associates Docket No. 98-43) invented by me, and in and to the application for United States Patent therefor and in and to any Letters Patent or reissues of said Letters Patent that may be granted thereon, and in and to any application or applications which are continuations, continuations-in-part, substitutes, or divisions of the aforesaid application; and I hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said VARIAN ASSOCIATES, INC., its successors or assigns, as the owner of the entire interest in and to the same for its sole use and behoof and for the use and behoof of its successors or assigns.

AND, for the above-named consideration, I do hereby sell, assign, transfer and set over unto said VARIAN ASSOCIATES, INC., its successors or assigns, my entire right, title and interest in and to said invention in each and every country foreign to the United States, and do hereby further constitute and appoint said VARIAN ASSOCIATES, INC., its successors or assigns, my Attorney, with full power to apply for and obtain Letters Patents in foreign countries, in its own name and right and interest, and to sell, transfer or otherwise dispose of the same and said right and interest; and I further convey to the said VARIAN ASSOCIATES, INC., its successors or assigns, all priority rights resulting from the above-identified application for United States Patent.

AND, I agree to execute all papers and give such testimony and perform such other lawful acts as said VARIAN ASSOCIATES, INC., its successors or assigns, may require to enable it, or them, to procure Letters Patent of the United States and countries foreign thereto, and to acquire, hold, enforce, convey, and uphold the validity of said Letters Patent and reissues and extensions thereof, and its title thereto.

AND, I hereby authorize said VARIAN ASSOCIATES, INC. to insert below this document identification indicia of the patent application hereinabove assigned including the serial number and the filing date of said application, when officially known.

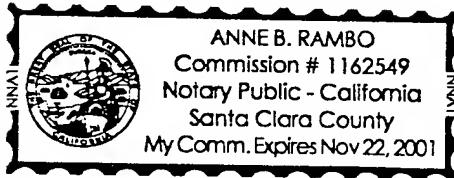
IN TESTIMONY WHEREOF, I have hereunto set my hand and seal on the date below indicated.

  
Hassan Mostafavi

11/6/98  
(Date)

State of California )  
County of Santa Clara)

to be the person(s) whose name~~s~~ is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature~~s~~ on the instrument the person(s) or the entity upon behalf of which the persons acted, executed the instrument.



WITNESS my hand and official seal.

Anne B. Rambo  
Signature of Notary



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

JUNE 21, 1999

PTAS

VARIAN MEDICAL SYSTEMS, INC.  
DEBBIE KUS  
3100 HANSEN WAY  
LEGAL DEPARTMENT  
PALO ALTO, CALIFORNIA 94304



\*101013931A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 04/12/1999

REEL/FRAME: 9876/0226  
NUMBER OF PAGES: 4

BRIEF: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
VARIAN ASSOCIATES, INC.

DOC DATE: 03/29/1999

ASSIGNEE:  
VARIAN MEDICAL SYSTEMS, INC.  
3100 HANSEN WAY  
LEGAL DEPARTMENT  
PALO ALTO, CALIFORNIA 94304

SERIAL NUMBER: 09178383  
PATENT NUMBER:

FILING DATE: 10/23/1998  
ISSUE DATE:

TARA WASHINGTON, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

RECEIVED  
JUL 8 2 1999

LEGAL DEPARTMENT



101013931

To the Honorable Assistant Commissioner for Patents: Please record the attached original document(s) or copy thereof.

## B. Name of conveying party(ies):

Varian Associates, Inc.  
Palo Alto, CA 94304

Additional name(s) of conveying party(ies) attached?  Yes  No

## B. Nature of conveyance:

- |   |  |
|---|--|
| <input type="checkbox"/> Assignment         | <input type="checkbox"/> Merger                    |
| <input type="checkbox"/> Security Agreement | <input checked="" type="checkbox"/> Change of Name |
| <input type="checkbox"/> Other _____        |  |

Execution Date \_\_\_\_\_

## B. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

## A. Patent Application No.

09/178383

## B. Patent No.(s)

Additional numbers attached?  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Debbie Kus  
 Internal Address: VARIAN MEDICAL SYSTEMS, INC.  
 Legal Department  
 Street Address: 3100 Hansen Way  
 City: Palo Alto State: California ZIP: 94304

04/13/1999 JSHABAZZ 00000209 220255 09178383

## 6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41)..... \$ 40.00

 Enclosed Authorized to be charged to deposit account

## 8. Deposit account number:

22-0255

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Bradford L. Friedman (Reg. No. 41,764)

Name of Person Signing

Signature

April 6, 1999

Date

Total number of pages including cover sheet, attachments and document: 4

APR-02-1999 10:35

PAGE 1

State of Delaware  
Office of the Secretary of State

---

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "VARIAN ASSOCIATES, INC.", CHANGING ITS NAME FROM "VARIAN ASSOCIATES, INC." TO "VARIAN MEDICAL SYSTEMS, INC.", FILED IN THIS OFFICE ON THE FIRST DAY OF APRIL, A.D. 1999, AT 12:30 O'CLOCK P.M.  
AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF AMENDMENT IS THE THIRD DAY OF APRIL, A.D. 1999.  
A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



*Edward J. Freel*  
Edward J. Freel, Secretary of State

9665297

AUTHENTICATION: 04-01-99  
DATE:

0820557 8100

991128565

**CERTIFICATE OF AMENDMENT TO  
RESTATED CERTIFICATE OF INCORPORATION  
OF  
VARIAN ASSOCIATES, INC.  
*A Delaware Corporation***

Varian Associates, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware, DOES HEREBY CERTIFY:

**FIRST:** The name of the Corporation is Varian Associates, Inc. and the name under which the Corporation was originally incorporated was Varian Delaware, Inc. The Corporation's original Certificate of Incorporation was filed with the Secretary of State of Delaware on January 22, 1976.

**SECOND:** The Board of Directors of the Corporation (the "Board of Directors") duly adopted resolutions at a meeting of the Board of Directors setting forth proposed amendments of the Restated Certificate of Incorporation of the Corporation, declaring such amendments to be advisable and directing that such amendments be considered at a meeting of the stockholders of the Corporation. The resolutions setting forth the proposed amendments are as follows:

**RESOLVED**, that the Restated Certificate of Incorporation of the Corporation be amended by amending and restating ARTICLE I thereof to read in its entirety as follows:

**ARTICLE I**

The name of this corporation is Varian Medical Systems, Inc.

**FURTHER RESOLVED**, that the Restated Certificate of Incorporation of the Corporation be amended by amending and restating ARTICLE V thereof to read in its entirety as follows:

**ARTICLE V**

Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors of this corporation shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the then authorized number of directors of this corporation, but in no event shall the number of directors be fewer than three. The directors, other than those who may be elected solely by the holders of any series of Preferred Stock (unless the relevant Preferred Stock certificate of designation shall so provide), shall be divided into three classes, as nearly equal in number as possible, designated "Class I," "Class II" and "Class III." Directors of each class shall serve for a term ending on the third annual meeting of stockholders following the annual meeting at which such class was elected. The foregoing notwithstanding, each director shall serve until his or her